

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH COPPOLA,

Defendant.

02:03-CR-00010-LRH-PAL

ORDER

Presently before the court is Joseph Coppola's ("Coppola") Motion for Recusal (# 195). The United States has filed a response (# 207), and Coppola replied (# 209). Also before the court, is Coppola's Motion to Strike Response (# 208).

Recusal is governed by 28 U.S.C. § 144 and 455. Under § 144, a party seeking recusal must set forth, in an affidavit, facts and reasons for the belief that bias or prejudice exists. *See* 28 U.S.C. § 144. The standard for recusal under Sections 144 and 455 is "whether a reasonable person with knowledge of all the facts would conclude that the judge's impartiality might reasonably be questioned." *United States v. Studley*, 783 F.2d 934, 939 (9th Cir. 1986). The alleged prejudice must result from an extrajudicial source; a judge's prior adverse ruling is not sufficient cause for recusal. *Id.* The challenged judge should rule on the legal sufficiency of the recusal motion in the first instance. *Id.* at 940. The judge has a duty not to recuse when there is no sound reason to do so.

Coppola argues that this court is biased against him and should recuse on his pending 28

1 U.S.C. § 2255 motion. Coppola contends that he witnessed the court act with apparent bias and
2 partiality in favor of the prosecution. Coppola further states that he witnessed the court act in
3 collusion with the prosecutor in denying him a fair trial.

4 The court has carefully reviewed Coppola's points and authorities and finds no basis for
5 recusal. Coppola's conclusory allegations of bias are insufficient to warrant recusal. No reasonable
6 person with knowledge of all the facts would conclude that this court's impartiality might
7 reasonably be questioned. *See Studley*, 783 F.2d at 939.

8 IT IS THEREFORE ORDERED that Coppola's Motion for Recusal (# 195) is hereby
9 DENIED.

10 IT IS FURTHER ORDERED that Coppola's Motion to Strike Response (# 208) is hereby
11 DENIED.

12 IT IS SO ORDERED.

13 DATED this 5th day of September, 2008.

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17 LARRY R. HICKS
18 UNITED STATES DISTRICT JUDGE
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